

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

VICTORIANO TAVAREZ, individually and on behalf  
of all others similarly situated,

Plaintiff,

-v-

LIVE, LLC,

Defendant.

CIVIL ACTION NO.: 21 Civ. 9770 (RA) (SLC)

**ORDER**

**SARAH L. CAVE**, United States Magistrate Judge.

Before the Court is Plaintiff's request to adjourn the telephonic Settlement Conference scheduled for next Tuesday, November 1, 2022. (ECF No. 29 (the "Request")). Plaintiff's counsel, William Downes, states that "in communicating with Plaintiff, we have learned that our client, who is over seventy-years old, had surgery on his eyes today, October 27, and due to the doctor recommended recovery period will be physically unable to participate in the settlement conference as currently scheduled." (Id.) Defendant opposes the Request and, in light of Plaintiff's alleged "history of continued eleventh hour adjournments[,] seeks monetary sanctions and an order striking Plaintiff's Complaint for failure to prosecute. (ECF No. 30).

Because this appears to be the second occasion on which Plaintiff has requested a last-minute adjournment of a settlement conference, the Court requires further information before ruling on the Request. Accordingly, **by 5:00 pm on October 28, 2022**, Mr. Downes shall file a declaration attesting to (i) when Plaintiff scheduled the surgery that occurred today (the "Surgery"); (ii) when Plaintiff's counsel informed Plaintiff of the Settlement Conference; (iii) when

Plaintiff's counsel learned of the Surgery; and (iv) to Mr. Downes' knowledge, when Plaintiff will be able to participate in a Settlement Conference.

Dated: New York, New York  
October 27, 2022

SO ORDERED.

  
SARAH L. CAVE  
United States Magistrate Judge